

1 BILL NO. S-85-01-14

2 SPECIAL ORDINANCE NO. S-

12-85

3 AN ORDINANCE approving Contract
4 No. 404-1984 - Winchester Road
5 Sanitary Sewer, by and between
6 the City of Fort Wayne, Indiana
7 and All Star Construction & Exca-
8 vating, Inc., in connection with
9 the Board of Public Works and
10 Safety.

11 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
12 THE CITY OF FORT WAYNE, INDIANA:

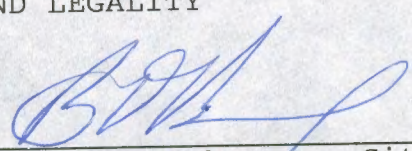
13 SECTION 1. That Contract No. 404-1984 - Winchester Road
14 Sanitary Sewer, by and between the City of Fort Wayne, Indiana
15 and All Star Construction & Excavating, Inc., in connection with
16 the Board of Public Works and Safety, for:


17 Contract No. 404-1984, Winchester
18 Road Sanitary Sewer will serve area
19 generally in portion of the South-
20 east Quarter, Section 22, Township
21 30 North, Range 12 East;

22 involving a total cost of Seventy-Four Thousand Fifty-Three and
23 55/100 Dollars (\$74,053.55), all as more particularly set forth
24 in said Contract, and which is on file with the Office of the
25 Board of Public Works and Safety and is by reference incorporated
26 herein, made a part hereof and is hereby in all things ratified,
27 confirmed and approved, and is available for public inspection.

28 SECTION 2. That this Ordinance shall be in full force
29 and effect from and after its passage and any and all necessary
30 approval by the Mayor.

31 APPROVED AS TO FORM
32 AND LEGALITY

33 
Bruce O. Boxberger, City Attorney


Councilmember

Read the first time in full and on motion by E. E. Smith,
seconded by Quinn, and duly adopted, read the second time
by title and referred to the Committee City Utilities (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, the _____ day of
_____, 19____, at _____ o'clock _____ M., E.S.

DATE: 1-8-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Henry,
seconded by E. E. Smith, and duly adopted, placed on its
passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>8</u>	_____	_____	<u>1</u>	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	<u>✓</u>	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 1-22-85

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort
Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. 1-12-85
on the 22nd day of January, 1985,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Mark E. GiaQuinta
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,
on the 23rd day of January, 1985,
at the hour of 11:30 o'clock PM M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 23 day of January,
1985, at the hour of 3:00 o'clock PM M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

CONTRACT NO. 404-1984
"Winchester Road Sanitary Sewer"

THIS CONTRACT made and entered into in triplicate this 2nd day of January, 1985, by and between All Star Construction & Excavating, Inc., herein called "CONTRACTOR," and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, acting by and through the Mayor, and the Board of Public Works & Safety, herein called "OWNER."

WITNESSETH, that the Contractor and the Owner for the consideration herein-after named, agree as follows:

ARTICLE 1. SCOPE OF WORK

Contractor shall furnish all labor, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for the installation of the following:

Winchester Road Sanitary Sewer - Resolution 404-1984

all according to Fort Wayne Water Pollution Control Engineering Department Drawings No. SY 11133, Sheet(s) 1 through 6, and do everything required by this contract and the other documents constituting a part hereof.

ARTICLE 2. THE CONTRACT SUM

The "Owner" shall pay Contractor for the performance of the contract the unit price sum of \$74,053.55. In event the amount of work is increased or decreased by "Owner" the contract sum shall be increased or decreased according to the unit price schedule set forth in the Contractor's Proposal.

1.	10" Sewer Pipe	Four Thousand Seven Hundred Sixty-One and 25/100	\$ 4,761.25
2.	8" Sewer Pipe	Twenty-Two Thousand Eight Hundred Forty-Seven and 30/100	\$22,847.30
3.	Std. CFW Manhole Type I-A	Five Thousand Six Hundred Eighty-Five and no/100	\$ 5,685.00
4.	Std. CFW MH Type VI-A	One Thousand Five Hundred Fifty-Six and no/100	\$ 1,556.00
5.	Std. CFW Cleanout	Three Hundred Fifty and no/100	\$ 350.00
6.	6" 'T' or 'WYE' (with plug inc. permits)	Two Thousand Seven Hundred Thirty and no/100	\$ 2,730.00
7.	6" Building Sewer	Ten Thousand One Hundred Fifty-Seven and 50/100	\$10,157.50
8.	#53 or #73 Special Backfill	Three Thousand One Hundred Ninety-Nine and no/100	\$ 3,199.00

9.	Special Backfill	One Thousand Eight Hundred Thirty-Two and 50/100	\$ 1,832.50
10.	10" Deep Strength Asphalt (Streets)	Three Thousand Three Hundred Sixty and no/100	\$ 3,360.00
11.	4" Asphalt (private drives) 3" #9 Binder and 1" A-2 Surface	Nine Hundred and no/100	\$ 900.00
12.	1" A-2 Surface (street)	Nine Thousand Six Hundred and no/100	\$ 9,600.00
13.	Double Chip and Seal	Nine Hundred Seventy-Five and no/100	\$ 975.00
14.	6" concrete (private)	Nine Hundred Eighty and no/100	\$ 980.00
15.	Seeding, Mulch and Fertilizer (inc. top- soil)	Four Thousand Fifty and no/100	\$ 4,050.00
16.	8" Sewer Pipe Replace.	Six Hundred and no/100	\$ 600.00
17.	6" Crushed #11 Limestone (dvwys)	One Hundred Twenty and no/100	\$ 120.00
18.	Complete Tree Removal as noted on plans	Three Hundred Fifty and no/100	\$ 350.00

ARTICLE 3. PROGRESS PAYMENTS

The "Owner" shall make payments on account of the contract as provided herein, as follows:

Monthly progress payments will be made by "Owner" upon submission of a statement of quantities of work completed and/or materials supplied to the job-site as of the end of each month. On or about the 15th day of the following month, ninety (90%) percent of the value of the work performed up to the first day of that month (based on the contract price of labor and materials incorporated in the work) and as estimated by the Contractor and approved or revised by the Engineering Department of the Owner, less the aggregate of previous payments, will be paid by Owner to the Contractor.

ARTICLE 4. ACCEPTANCE AND FINAL PAYMENT

Final payment shall be due at the time the work is fully completed and accepted and the contract is fully performed.

Upon filing of a Completion Affidavit by the Contractor that the work is ready for final inspection and acceptance, the Board of Public Works & Safety will direct the Engineering Department of the "Owner" to promptly make such inspection. When the Engineering Department finds the work acceptable under the contract, and the contract is fully performed, it shall so inform the Board of Public Works & Safety which shall issue a final certificate stating that the work provided for in this Contract has been completed and is accepted thereupon, and the entire balance of the Contract sum shall be due and payable to the Contractor; provided only that contractor shall first furnish "owner," if requested to do so, satisfactory evidence that all persons who have supplied labor, material, or equipment for the work have been fully paid.

ARTICLE 5. WORKMEN'S COMPENSATION ACT

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana, that he has complied with the Workmen's Compensation Act in accordance with Statutes of State of Indiana and Ordinances of City of Fort Wayne.

Any judgment rendered against the City of Fort Wayne in any suits for damages for injury to real or personal property, or for any injury sustained by any person growing out of any act or doing of Contractor, or its agents, employees or workmen and that any judgment of any court or award of any Board of Arbitrators or of the State Industrial Board of the State of Indiana rendered against the City of Fort Wayne in any suit or claim arising under said Workmen's Compensation Acts of the State of Indiana, now or hereafter in force, relating to compensation for accidental injuries or death suffered by his employees or the employees of any Subcontractor or Subcontractors in the course of their employment, when notice of the pendency of such suit, hearing or arbitration shall have been given said Contractor, shall be conclusive against Contractor as to amount, liability and all other things pertaining thereto; it being the intent of the parties hereto that Contractor indemnify and hold harmless City in the premises.

ARTICLE 6. NONDISCRIMINATION OF LABOR

The Contractor further agrees to be bounded by Section 15-13 (as amended) of the Code of the City of Fort Wayne, Indiana of 1974, passed by the Common Council of the City of Fort Wayne, Indiana as General Ordinance No. G-34-78 (as amended) on December 12, 1978, a copy of which Section is attached and incorporated herein and made a part hereof. (M/FER/6 - M/FER/8)

ARTICLE 7. PREVAILING WAGE SCALE

The Contractor agrees to pay and also require of his subcontractors that they pay wage rates on the work covered by this contract which shall not be less than the prescribed scale of wages as determined pursuant to the provisions of Statutes of Indiana and Ordinances of City of Fort Wayne, attached hereto and made a part hereof. (WR/1)

ARTICLE 8. COMPONENT PARTS OF THIS CONTRACT

The following documents are as fully a part of the contract as if hereto attached or herein repeated:

- A. Advertisement for Bids, for Contract No. 404-1984
- B. Instructions to Bidders for Contract No. 404-1984
- C. Contractor's Proposal Dated December 12, 1984.
- D. Fort Wayne Water Pollution Control Engineering Department Construction Drawing No. SY-11133, Sheets 1-6.
- E. General Specifications and Conditions, detailed specifications, construction standards for the installation of storm and sanitary sewers adopted July 23, 1980, and addenda thereof of the City of Fort Wayne's Water Pollution Control Engineering Department.
- F. Workmen's Compensation Act Statutes of State of Indiana and Ordinances of City of Fort Wayne
- G. Non-Discrimination of Labor General Ordinance No. G-34-78 (as amended).
- H. Prevailing wage scale
- I. Performance Bond
- J. Labor and Material Payment bond
- K. Comprehensive Liability Insurance Coverage
- L. Application for Cut Permit
- M. Escrow Agreement
- N. Notice of Award
- O. Notice to Proceed
- P. Change Order
- Q. Notice of Final Acceptance
- R. Special Provisions

ARTICLE 9. GUARANTEE OF WORKMANSHIP

The Contractor shall warrant all materials, labor and equipment furnished and work performed for a period of One (1) year from date of final acceptance in writing by the Owner.

ARTICLE 10. INDEMNITY

Contractor shall furnish to owner, within ten (10) days of the date hereof a certificate from an insurer acceptable to owner showing personal injury and property damage. Insurance in force issued in connection with the work to be done under this Contract in accordance with said Specifications of the City of Fort Wayne, Division I, Section 7.

ARTICLE 11. ADJUSTMENTS OF DISPUTES

All questions or controversies which may arise between the Contractor and the Owner under the provisions of this Contract shall be subject to the decision of the Chief Engineer of the Fort Wayne Water Pollution Control Department, and his decision shall be final and conclusive upon the parties.

Provided, however, no changes in the plans, specifications, or other phases or the work covered by this Contract will be permitted except on prior written authorization by the Board of Public Works.

ARTICLE 12. COMPLETION DATE

The Contractor agrees to complete the work specified in the within contract in consecutive calendar days after having been ordered by the Owner to commence work under this contract.

ARTICLE 13. COUNCILMANIC APPROVAL

This Agreement, although executed on behalf of the Owner by the Mayor and Board of Public Works & Safety of the City of Fort Wayne, Indiana, shall not be binding upon the Owner unless and until the same shall have been ratified and approved by the Common Council of the City of Fort Wayne, Indiana, and should said Common Council fail to approve the same within ninety (90) days after the date hereof, then this Contract shall become wholly void.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

By: Edward F. Hass
Title: President

By: Edward M. Hass
Title: Secretary

CITY OF FORT WAYNE, INDIANA

By: Win Moses, Jr.
Win Moses, Jr., Mayor

ATTEST:

Helen Gochenour
Helen Gochenour, clerk

BOARD OF PUBLIC WORKS & SAFETY

David J. Kiester
David J. Kiester, Director

Cosette R. Simon
Cosette R. Simon, Director

Lawrence D. Consalvos, Director

APPROVED as to form and legality:

Richard I. Snouffer
Richard I. Snouffer, Associate
City Attorney

APPROVED by the Common Council of the City of Fort Wayne this ____ day of ____
1984.



The Continental Insurance Companies

Bond No.

PERFORMANCE BOND

Approved by The American Institute of Architects
A.I.A. Document No. A-311 (Feb. 1970 Edition)

KNOW ALL MEN BY THESE PRESENTS:

That All Star Construction & Excavating, Inc., 5722 Langford LN, Fort Wayne, IN 46804
(Here insert full name and address or legal title of the Contractor)

as Principal, hereinafter called Contractor, and the Continental Insurance Company, New York, New York as Surety,
(Here insert full name and address or legal title of Surety)
hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation
(Here insert full name and address or legal title of Owner)
by and through the Board of Public Works and Safety, 1 Main Street, 9th floor, Fort Wayne, IN
as Oblige, hereinafter called Owner, in the amount of Seventy four thousand, fifty three dollars and 55 cents
..... Dollars (\$74,053.55*****),
for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated January 2, 1985
entered into a contract with Owner for installation of the Winchester Road Sanitary Sewer, Resolution
404-1984
in accordance with drawings and specifications prepared by Water pollution control engineering department
of the City of Fort Wayne, Indiana
(Here insert full name and address or legal title of Architect)
which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said contract, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly

1) Complete the Contract in accordance with its terms and conditions, or

2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

Signed and sealed this _____ day of _____ A. D. 19_____

All Star Construction & Excavating, Inc. (Seal)

Edward W. Goss

(Witness)

Secretary

Edward F. Goss (Principal)

(Title) President

Yaste, Zent & Rye Agency, Inc.

The Continental Insurance Company

(Seal)

Gerald A. Dale

(Witness) Authorized Agent

Donald R. B. [Signature] (Surety)

(Title) Attorney in fact

LABOR AND MATERIAL PAYMENT BOND

Approved by The American Institute of Architects

A.I.A. Document No. A-311 (Feb. 1970 Edition)

Note: This bond is issued simultaneously with another bond in favor of the owner conditioned for the full and faithful performance of the contract

KNOW ALL MEN BY THESE PRESENTS:

That All Star Construction & Excavating, Inc., 5722 Langford LN, Fort Wayne, IN 46804

(Here insert full name and address or legal title of Contractor)

as Principal, hereinafter called Principal, and The Continental Insurance Company, New York, New York as Surety,
(Here insert full name and address or legal title of Surety)
hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation

(Here insert full name and address or legal title of Owner)

by and through the Board of Public Works and Safety, 1 Main Street, 9th Floor, Fort Wayne, IN

as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the amount of Seventy four Thousand fifty three dollars and 55 cents Dollars (\$ 74,053.55*****),

(Here insert a sum equal to at least one-half of the contract price)

for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated January 2, 1985
entered into a contract with Owner for installation of the Winchester Road Sanitary Sewer, Resolution # 404-1984

in accordance with drawings and specifications prepared by the Water Pollution Control Engineering department of the City of Fort Wayne, Indiana

(Here insert full name, title and address or legal title of Architect)

which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, then this obligation shall be void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment of any costs or expenses of any such suit.

3. No suit or action shall be commenced hereunder by any claimant:

a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: The Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed, the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b) After the expiration of one (1) year following the date on which Principal ceased work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

c) Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety of mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this _____ day of _____ A. D. 19 _____

All Star Construction & Excavating, Inc.

(Seal)

Edward M. Foss

(Witness)

Secretary

Edward F. Foss
(Principal)
(Title) President

Yaster, Zent & Rye Agency, Inc.

The Continental Insurance Company

(Surety)

(Seal)

BY Herold A. Dale
(Witness) Authorized Agent

Donald R. Hoffman
(Title) Attorney in fact

BILL NO. S-85-01-14

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON CITY UTILITIES TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) approving Contract No.

404-1984 - Winchester Road Sanitary Sewer, by and between the City of
Fort Wayne, Indiana and All Star Construction & Excavating, Inc.,
in connection with the Board of Public Works and Safety

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)

(~~RESOLUTION~~)

Do Pass

YES

NO

Thomas C. Henry
THOMAS C. HENRY
CHAIRMAN

Janet G. Bradbury
JANET G. BRADBURY
VICE CHAIRWOMAN

Donald J. Schmidt
DONALD J. SCHMIDT

JAMES S. STIER

Charles B. Redd
CHARLES B. REDD

CONCURRED IN

1-22-85

SANDRA E. KENNEDY
CITY CLERK

TITLE OF ORDINANCE Contract No. 404-1984 - Winchester Road Sanitary Sewer

DEPARTMENT REQUESTING ORDINANCE Board of Public Works And Safety *JS-01-14*

SYNOPSIS OF ORDINANCE Contract No. 404-1984, Winchester Road Sanitary Sewer

will serve area generally in portion of the Southeast Quarter, Section 22,
Township 30 North, Range 12 East, All Star Construction & Excavating, Inc.,
is the Contractor.

EFFECT OF PASSAGE Improvement of sewer conditions in area above.

EFFECT OF NON-PASSAGE _____

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$74,053.55

ASSIGNED TO COMMITTEE _____